

BKF ENGINEERS

Audit Report

TRANSPORTATION AUTHORITY OF MARIN CONTRACT NO. C-FY07/08-012

January 1, 2006, through April 30, 2008



JOHN CHIANG
California State Controller

July 2008



JOHN CHIANG
California State Controller

July 25, 2008

Douglas Gibson
Audits and Investigations, MS 2
California Department of Transportation
P.O. Box 942874
Sacramento, CA 94274-0001

Dear Mr. Gibson:

The State Controller's Office has completed a pre-award audit of BKF Engineers' proposed Contract No. C-FY07/08-012 with Transportation Authority of Marin (TAM) for the period of January 1, 2006, through April 30, 2008.

Our audit determined that the required financial provisions are missing in the proposed contract agreement, the salary rates of some employees identified in the cost proposal are misstated, and the payment methodology is not allowable.

If you have any questions, please call Andrew M. Finlayson, Chief, State Agency Audits Bureau, at (916) 324-6310.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB:sk:vb

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Audit Report

Summary

The State Controller's Office (SCO) has completed a pre-award audit of BKF Engineers' proposed Contract No. C-FY07/08-012 with the Transportation Authority of Marin (TAM) for the period of January 1, 2006, through April 30, 2008.

Our audit determined that required financial provisions are missing in the proposed contract agreement, the salary rates of some employees identified in the cost proposal are misstated, and the payment methodology is not allowable.

Background

The Transportation Authority of Marin received a contract proposal (Contract No. C-FY07/08-012) from BKF Engineers (Consultant) to provide professional design and construction support engineering services to assist the Transportation Authority of Marin in developing the Marin-Sonoma Narrows project (EA No. 26400). The proposed contract shall commence on the date agreed to by the contracting parties and shall terminate on June 30, 2010. The total amount shall not exceed \$4,090,086. Reimbursement for this contract is to be paid based on actual costs plus a fee equal to a percentage of the actual costs. The Consultant will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved cost proposal.

The subcontractors proposed for this contract are as follows:

Biggs Cardosa
CSW
AEC Engineers
Parikh Consultants
GeoCon
David Powers and Associates

The Consultant is responsible for ensuring compliance with contract provisions and state and federal regulations, which include, but are not limited to, ensuring that the costs proposed for this agreement are reasonable, allowable, and allocable, and that the financial management system maintained by the consultant is adequate to accumulate and segregate reasonable, allowable, and allocable costs.

Objectives, Scope, and Methodology

The scope of our audit was limited to financial and compliance activities related to the above-referenced contract proposal. The audit consisted of verifying the proposed costs and assessing the accounting principles used and significant estimates made by the consultant, as well as evaluating compliance with Code of Federal Regulations (CFR), Title 49 Part 18, and CFR, Title 48 Chapter 1, Part 31. We reviewed the proposed agreement, interviewed applicable personnel, and performed limited tests on the Consultant's financial management system and proposed costs as of April 30, 2008. We reviewed the proposed rates for the purposes of accepting contract progress billings. Financial management system and

cost-proposal changes subsequent to this date were not tested and, accordingly, our conclusion does not pertain to changes arising after this date.

We conducted this performance audit according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the information obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit BKF Engineers' financial statements and we did not audit or examine the proposed indirect rates since a pre-award audit is significantly less in scope than an incurred cost audit or examination. Those financial statements and indirect cost rates were audited by other auditors whose reports have been furnished to us. Our review of BKF Engineers' internal controls was limited to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

Our pre-award audit disclosed that required financial provisions are missing in the proposed contract agreement, the salary rates of some employees identified in the cost proposal are misstated, and the payment methodology is not allowable.

Views of Responsible Official

We discussed the audit results with Linda Schmid, Chief Financial Officer, during the exit conference held on June 9, 2008. Ms. Schmid agreed with the audit results; therefore, a draft report is not necessary and the report will be issued as final.

Restricted Use

This report is solely for the information and use of the California Department of Transportation, BKF Engineers, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

July 25, 2008

Findings and Recommendations

FINDING 1— Required financial provisions are missing in the proposed contract agreement

The consultant's proposed contract did not include some required financial provisions. The provisions that are inadequate are as follows:

- A reference to the costs principles is missing,
- A reference to the equipment purchasing clause is not clearly stated, and
- A reference to the retention of records/audits clause is not clearly stated.

Title 49 Code of Federal Regulations (CFR), Subtitle C, Part 18.36(f)(3), states, "Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with federal cost principles."

Title 49, CFR, Subtitle C, Part 18.36(i)(11), states, "Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed."

Recommendation

The Transportation Authority of Marin should modify the contract in order to include the required financial provisions.

FINDING 2— Salary rates of some employees identified in the Cost Proposal are misstated

The SCO determined that salary rates for employees identified in the contract cost proposal are misstated. We reviewed payroll records of nine employees and we determined the following misstatements:

- Loaded hourly rates for two employees are overstated.
- Loaded hourly rates for four employees are understated.
- Loaded hourly rates for two employees were not provided for our review.

Title 49, CFR, Subtitle C, Part 18.20(5), Allowable Costs, states, "Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs."

Title 49, CFR, Subtitle C, Part 18.20(5)(6), Source Documentation, states, "Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc."

Recommendation

The contract cost proposal should be modified to state the accurate salary rates of employees identified in the contract.

**FINDING 3—
Unallowable
contracting
methodology**

The proposed contract stated that the method of payment will be based on actual costs plus a fee equal to a percentage of the actual costs. This type of contract is a “cost-plus-percentage-of-cost” contract which is not allowable.

CFR Title 44, 13.36(f)(4) states, “. . . cost-plus-percentage-of-cost method of contracting shall not be used.”

Recommendation

The contract proposal payment methodology should be modified to a permitted type of contract as stated in the California Department of Transportation’s Local Assistance Procedures Manual, Chapter 10, page 9, dated May 1, 2006.

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